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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/705,335	11/10/2003	Ivano Vagnoli	141483.00003-P1243US00	5137
25207	7590	05/17/2006	EXAMINER	
POWELL GOLDSTEIN LLP ONE ATLANTIC CENTER FOURTEENTH FLOOR 1201 WEST PEACHTREE STREET NW ATLANTA, GA 30309-3488			WATKINS III, WILLIAM P	
			ART UNIT	PAPER NUMBER
			1772	

DATE MAILED: 05/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/705,335

Applicant(s)

VAGNOLI, IVANO

Examiner

William P. Watkins III

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 February 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 9,10,12 and 13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 9,10,12 and 13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 06 February 2006 has been entered.

2. The disclosure is objected to because of the following informalities: applicant is requested to update the status of the related application on page 2 of the specification.

Appropriate correction is required.

3. Claims 12 and 13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 12, the phrase "said aperture of the semifinished leather tile" has no antecedent basis. Claim 9 recites a

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plurality of holes not a single aperture. It is also unclear what is "semifinished" about the leather tile. There is also no antecedent basis for "said hardened resin visible on said first face". In claim 13 there again is no antecedent basis for "said hardening resin" and no antecedent basis for "semifinished", which again is unclear in meaning.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 9-10 and 12-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Liardet (U.S. 4,864,790) in view of Hirsch (U.S. 4,849,145) and Zegler et al. (U.S. 5,567,497) further in view of Yoshimi et al. (U.S. 4,860,506).

Liardet teaches a floor tile or roll with a leather surface and a backing layer joined by adhesive (abstract, col. 9, lines 30-20). Zegler et al. teaches joining a top surface covering that has a layer which will fuse with thermoplastic to a

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thermoplastic base which has channels (abstract). Hirsch teaches joining thermoplastic to a leather layer by injection of the thermoplastic into holes in the leather layer and around edges of the leather layer (abstract, Figure 5).

The instant invention claims a leather floor tile with a thermoplastic backing that has resin that extends through holes in the leather layer and other perforations that are not filled. It would have been obvious to join a thermoplastic as the base layer of Liardet to prevent slipping because of the teachings of Zegler et al. (U.S. 5,567,497). It further would have been obvious to have joined the leather layer and bottom resin layer by injecting resin into holes of the leather layer instead of using adhesive because of the teachings of Hirsch. It further would have been obvious to perforate the assembly of Liardet as modified above in order to provide sound reduction because of the teachings of Yoshimi et al. As a matter of claim construction the examiner gives little weight to the recited intended use of the tile in a heated floor system as this does not seem to imply any additional structure that is not recited in the body of the claim. The perforations taught by Yoshimi et al. allow circulation of air from the top and bottom of the tile of the combination of the references.

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6. Applicant's arguments filed 06 February 2006 have been fully considered but they are not persuasive.


Applicant has not presented detailed arguments regarding applied references other than to state that the amendments to claim 9 overcome the references. The new limitations in claim 9 are treated in the above rejection. The examiner notes that applicant in claim 12 appears to be trying to claim a plurality of holes in a top leather layer of the composite tile that are filled with resin from the lower resin layer and that the tile further comprises through holes from the lower surface of the resin layer to the upper surface of the leather layer, that pass through the plurality of holes in the leather layer that are filled with resin from the lower layer. Though one of ordinary skill in the art would expect the perforations taught by Yoshimi et al. to be evenly distributed across the surface of the tile and thus penetrate some of the resin filled plurality of holes in the leather layer (meeting instant claim 12), there is no suggestion in the applied combination of references to limit the through holes to only passing through the resin filled plurality of holes in the leather layer, as is supported by Figure 12 and the top of page 4 of the instant specification.

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7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to William P. Watkins III whose telephone number is 571-272-1503. The examiner works an increased flex time schedule, but can normally be reached Monday through Friday, 11:30 A.M. through 8:00 P.M. Eastern Time. The examiner returns all calls within one business day unless an extended absence is noted on his voice mail greeting.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



WW/ww

May 13, 2006

**WILLIAM P. WATKINS III
PRIMARY EXAMINER**